

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2002-23-C - ORDER NO. 2002-365

MAY 13, 2002

IN RE: Application of Wholesale Carrier Services,)	ORDER GRANTING
Inc. for a Certificate of Public Convenience)	CERTIFICATE
and Necessity to Provide Interexchange and)	
Local Exchange Telecommunications within)	
the State of South Carolina; and for)	
Alternative and Flexible Regulation.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of Wholesale Carrier Services, Inc. (WCS or the Company) for authority to provide resold and facilities-based local exchange and intrastate interexchange telecommunications services within the State of South Carolina. The Company requests that the Commission regulate its local telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C. In addition, the Company requests that the Commission regulate its business service offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Application was filed pursuant to S.C. Code Ann. Section 58-9-280 (Supp. 2001), and the Rules and Regulations of the Commission.

By letter, the Commission's Executive Director instructed the Applicant to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform

interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. The Applicant complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition (“SCTC”).

On March 13, 2002, counsel for SCTC filed with the Commission a Stipulation in which the Applicant stipulated that it would seek authority in non-rural local exchange (“LEC”) service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until WCS provided written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. The Company also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. WCS agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to the Company provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on April 17, 2002, at 10:30 a.m. in the Commission's Hearing Room. The Honorable William Saunders, Chairman, presided. WCS was represented by Scott Elliott, Esquire. Chris S. Barton, President and Chief Executive Officer for the Company, appeared and testified on behalf of the Company. Jocelyn G. Boyd, Staff Counsel, represented the Commission Staff.

WCS seeks a certificate of public convenience and necessity to provide resold and facilities-based local exchange telecommunications and interexchange services throughout the State of South Carolina. WCS is a Florida corporation that has received authorization to transact business within the State of South Carolina. Barton presented testimony regarding the Company's managerial, technical, and financial ability to provide telecommunications services in South Carolina.

As President and Chief Executive Officer of WCS, Barton oversees the day-to-day operations of the Company. WCS intends to provide business-to-business telecommunications services in South Carolina. The Company also provides consulting and professional services to primarily large enterprise customers. WCS will approach large customers who have numerous locations and offer these customers local and long distance services that WCS resells and integration of all their different local and interexchange services under an internet-based billing platform. The Company might also provide consulting services alone, without providing any telecommunications services. WCS does not utilize telemarketing. However, Barton testified that the Company is aware of the Commission's telemarketing guidelines and if the Company does any telemarketing in South Carolina, WCS will abide by the Commission's rules.

Regarding the Company's managerial and technical abilities to provide telecommunications services, Barton has been in the telecommunications sector for approximately fifteen years. According to the testimony, three persons on the management staff have comparable ten plus years in managing telecommunications

operations and marketing to national account-type clients, mostly from the long distance side of the marketplace.

Regarding the Company's financial resources, WCS is profitable and has focused on large-scale clients as opposed to marketing to all business consumers. The record reveals that the Company's current assets as of December 31, 2001 were \$493,990.96 and its current liabilities were \$163,870.92.

The regulatory contact persons at the Company are Mr. Barton or Steve Cohen. Mr. Cohen is also the customer service contact person. The Company's customer service department is staffed by a live operator twenty-four hours a day; however, the phones are forwarded to a live operator center after normal commercial hours (7:30 to 6:30). The Company has a dispatch system which pages a number of different people, including management. However, Barton did testify that the Company's larger customers know how to contact the Company directly by paging the appropriate WCS employee or the appropriate technical contact.

WCS is certified to provide telecommunications services in New York, Texas, California, Florida, Georgia, and North Carolina. In the states where the Company is certified to provide telecommunications services, WCS is currently providing interexchange services and some enhanced services. The Company is operating in good standing in the states where it is certified to operate. WCS has never had authority denied in any state where it has applied for authority nor has the Company's authority been revoked in any state where WCS has been granted authority. Additionally, WCS has never been the subject of an investigation or been fined or sanctioned by a state or

federal regulatory body. WCS has not received revenues from the completion of intrastate calls in South Carolina.

The Company also seeks waivers of certain Commission Rules. First, WCS maintains its books according to Generally Accepted Accounting Principles. The Company wishes to continue maintaining its books according to GAAP. Next, the Company would like to keep its books and records at its home office in Florida. WCS also request that the Commission waive the requirement that it publish its own telephone directory. Finally, the Company asks that the Commission grant it a waiver of filing a map of WCS' service territory in South Carolina. Barton also agreed to amend the Company's tariff regarding payment arrangements and gross receipts taxes to comply with the Commission's regulations and Orders.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. WCS is organized as a corporation under the laws of the State of Florida and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. WCS is a provider of local exchange and interexchange telecommunications services and wishes to provide its services in South Carolina.

3. WCS has the managerial, technical, and financial resources to provide the services as described in its Application.

4. The Commission finds that WCS' "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B)(3) (Supp. 2001).

5. The Commission finds that WCS will support universally available telephone service at affordable rates.

6. The Commission finds that WCS will provide services which will meet the service standards of the Commission.

7. The Commission finds that the provision of local exchange service by WCS "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280 (B)(5) (Supp. 2001).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to WCS to provide competitive intrastate resold and facilities-based non-rural local exchange service in South Carolina. The terms of the Stipulation between WCS and SCTC are approved, and adopted as a part of this Order. Any proposal to provide such service to rural service areas is subject to the terms of the Stipulation. In addition, WCS is granted authority to provide resold and facilities-based intrastate interLATA interexchange service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. WCS shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. WCS' local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for WCS' competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, WCS' local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

3. The Commission adopts a rate design for the long distance services of WCS which are consistent with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

Under the Commission approved alternative regulation, the business service offerings of WCS including consumer card services, and operator services, are subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. Under this relaxed regulatory scheme,

tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to WCS also.

4. With regard to the interexchange residential service offerings of WCS, the Commission adopts a rate design which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

5. WCS shall not adjust its interexchange residential rates below the approved maximum level without notice to the Commission and to the public. WCS shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange residential services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be

treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2001).

6. If it has not already done so by the date of issuance of this Order, WCS shall file its revised interexchange long distance tariff within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

7. WCS is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

8. With regard to the Company's offering of interexchange services, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

9. WCS shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If WCS changes underlying carriers, it shall notify the Commission in writing.

10. With regard to the origination and termination of toll calls within the same LATA, WCS shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, the Company shall comply with the imputation standard as

adopted by Order No. 93-462 and more fully described in paragraph four of the Stipulation and Appendix B approved by Order No. 93-462.

11. WCS shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports can be found at the Commission's website at www.psc.state.sc.us/forms. The title of the forms which the Company shall utilize to file annual surveillance reports with the Commission is "Annual Information on South Carolina Operations for Interexchange Companies and AOS".

12. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

WCS shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The Company shall utilize the "Authorized Utility Representative Information" form which can be located at the Commission's website at www.psc.state.sc.us/forms to file the names of these representatives with the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

13. WCS shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

14. The Company also requests a waiver of 26 S.C. Code Ann. Regs. 103-631 (Supp. 2001) and 103-610 (1976). WCS will make arrangements with the incumbent local exchange carriers whereby the names of WCS' customers will be included in the directories published by the incumbent local exchange carriers. We find the Company's request to have the names of its customers published in the directories of the incumbent local exchange carrier reasonable and we grant the Company's request for a waiver of 26 S.C. Code Ann. Regs. 103-631 (Supp. 2000). We also grant the Company's request to maintain its books in accordance with Generally Accepted Accounting Principles. Additionally, the Company requests a waiver of S.C. Code Ann. Regs. 103-610 (1976) so that the Company can keep its books and records at its principal place of business. We find that an unusual difficulty would be placed on the Company if it were required to keep its books and records, which are maintained in accordance with Regulation 103-610, within the State of South Carolina; therefore, the Company's request for a waiver of Regulation 103-610 is also granted. Finally, we grant the Company's request for a waiver of the map filing requirement pursuant to Regulation 103-612.2.3. WCS will offer its long distance services statewide and its local services will be offered in the non-rural areas of the State. However, the Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

15. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a “Public Safety Communications Center,” which is more commonly known as a “911 system” or “911 service.” Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs WCS to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate authorities is to be made before providing voice or dial tone telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association (“SC NENA”) with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing voice or dial-tone services within South Carolina, WCS shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company’s operations as required by the 911 system.

16. WCS shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, WCS shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The “Annual Report for Competitive Local

Exchange Carriers” form can be located at the Commission’s website at www.psc.state.sc.us/forms. This form shall be utilized by the Company to file annual financial information with the Commission. Additionally, pursuant to the Commission’s regulations, the Company shall file a “CLEC Service Quality Quarterly Report” with the Commission. The proper form for this report can be found at the Commission’s website at www.psc.state.sc.us/forms/default.htm.

17. The Federal Communications Commission (FCC) in July of 2000 required all telecommunications carriers throughout the United States to implement three-digit, 711, dialing for access to all Telecommunications Relay Services (TRS). The Commission issued a memorandum in March of 2001 instructing all South Carolina telecommunications carriers to implement the service completely by October of 2001. All competitive local exchange carriers (CLECs) and incumbent local exchange carriers (ILECs) were instructed to include language in their tariffs introducing 711 as a new service offering with deployment by July 1, 2002, and to translate 711 dialed calls to 1-800-735-2905. All Payphone Service Providers (PSPs) were instructed to modify their programmable phones to translate calls dialed as 711 to their assigned TRS toll free number 1-800-735-2905 in order to route 711 calls to the TRS provider before October 1, 2001. Additionally, telephone directories were required to be updated and bill inserts promoting 711 were also required. This Company must comply with the applicable mandates. For complete information on compliance with this FCC and Commission requirement, go to the Commission’s website at www.psc.state.sc.us/forms.

18. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

Docket No. 2002-23 -C

Re: Application of Wholesale Carrier Services, Inc.)
for a Certificate of Public Convenience and)
Necessity to Provide Resold and Facilities-)
based Local Exchange and Interexchange)
Telecommunications Services in the State of)
South Carolina)
_____)

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Wholesale Carrier Services, Inc. ("Wholesale Carrier Services, Inc.") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Wholesale Carrier Services, Inc.'s Application. SCTC and Wholesale Carrier Services, Inc. stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Wholesale Carrier Services, Inc., provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Wholesale Carrier Services, Inc. stipulates and agrees that any Certificate which may be granted will authorize Wholesale Carrier Services, Inc. to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. Wholesale Carrier Services, Inc. stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Wholesale Carrier Services, Inc. stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Wholesale Carrier Services, Inc. provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Wholesale Carrier Services, Inc. acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Wholesale Carrier Services, Inc. stipulates and agrees that, if Wholesale Carrier Services, Inc. gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Wholesale Carrier Services, Inc. will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Wholesale Carrier Services, Inc. acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

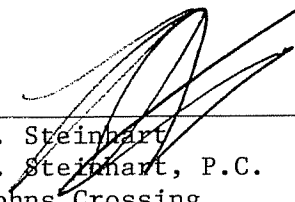
7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Wholesale Carrier Services, Inc., and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Wholesale Carrier Services, Inc. agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. Wholesale Carrier Services, Inc. hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 7 day of April,
2002.

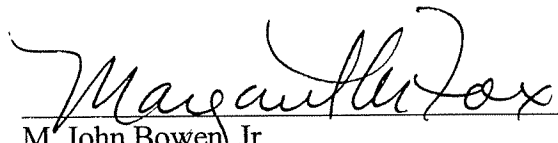
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Attorneys for the South Carolina Telephone
Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

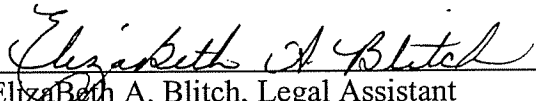
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based Local Exchange and Interexchange)
Telecommunications Services in the State of)
South Carolina)
_____)

**CERTIFICATE OF
SERVICE**

I, ElizaBeth A. Blich, do hereby certify that I have this date served one (1) copy of the foregoing Stipulation upon the following party of record by causing said copy to be deposited with the United States Mail, first class postage prepaid to:

Lance J.M. Steinhart
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March 13, 2002

Columbia, South Carolina